

## **6.13.00.00 - DIRECTOR'S DEEDS**

### **6.13.01.00      General**

A Director's Deed is a document used for the conveyance of any real property or interests therein, to be sold or exchanged under the provisions of Section 104.5 of the S&H Code. Director's Deeds are executed by the Director upon approval of the CTC.

Preparation costs of maps and documents for disposal of real property or interests in real property either acquired for exchange pursuant to utility agreement or cooperative agreement, acquired as a replacement for real property required for highway purposes, and/or excess property to be exchanged to the adjacent property owner for State's requirements, are eligible for Federal aid. Preparation of maps and documents in the above situations are charged to the project EA.

Preparation cost of maps and documents for disposal of real property no longer required for highway purposes and/or for real property acquired for highway purposes, but not used for highway purposes, are not eligible for Federal aid and shall be charged to a general ledger account.

### **6.13.02.00      Director's Deed Forms**

The types of DD forms involved are as follows:

- A. Standard DD, Form RW 6-1(S), to be used for the conveyance of lands by sale or exchange.
- B. DD (Quitclaim), Form RW 6-1(T).
- C. DD, Form RW 6-1(U), to be used where the State has acquired land by inadvertence or mistake in the description in the deed conveying same to the State.
- D. DD, Form RW 6-1(V), to be used for exchange of access openings.
- E. DD, Form RW 6-1(W), to be used where the State has acquired access rights by inadvertence or mistake in the description in the deed conveying same to the State.

### **6.13.03.00      Preparation**

Two copies of the DD must be forwarded to HQ R/W at the time the request is made for execution of the Deed.

DD descriptions follow the same rules of description writing as used in the preparation of grant deeds or other types of acquisition documents. The State cannot convey any greater title than it acquired. Conveyance by DD is subject to all encumbrances that affected the property. Therefore, each DD must contain the following provision:

*"Subject to special assessments, if any, restrictions, reservations and easements of record."*

Any title encumbrance which affects the property being conveyed, but is not of record, must be specifically set out in the DD.

It is preferable to show the marital status of the grantee and the manner in which title will be conveyed. Unless due to some special condition, it is desirable to convey title to grantees in the same manner as they hold title to adjoining land, e.g., in joint tenancy.

### **6.13.03.01      Exceptions and Reservations to State**

It is extremely important and necessary to make proper exceptions and reservations in DD where the State will retain or reserve certain rights from land being conveyed, such as drainage easements, slope rights, access rights, oil, gas, and mineral rights, etc.

### **6.13.03.02      Access Clauses**

For purposes of providing constructive notice of the nonexistence of access rights appurtenant to real property lying adjacent to a freeway, constructed or proposed to be constructed, one of the following two access clauses is to be used:

- A. DD-1

The following clause shall be used in all cases where property being conveyed abuts directly upon the access restriction line of the freeway. The clause shall also be used in all cases where property being conveyed abuts only upon a

sidewalk, a bikeway, and/or any other type of nonmotorized public thoroughfare lying between the real property and the access restriction line of the freeway.

The clause may be used where property being conveyed abuts only upon a frontage or connecting road, a cul-de-sac, cross street or alley that is closed at the freeway and/or any other type of motorized public thoroughfare lying between real property being conveyed and the access restriction line of the freeway. Use this clause where real property is being conveyed prior to construction of the freeway.

***"There shall be no abutter's rights of access appurtenant to the above-described real property in and to the adjacent State freeway."***

When limited access is to be allowed directly into the freeway, such as an access opening, a phrase must be added to the above Clause that will precisely define the location of the access opening, such as:

***". . . except over and across the westerly 20 feet of the course described above with the length of 126.23 feet."***

When the real property abuts upon an elevated freeway and upon a public way beneath said freeway, a statement permitting access to the public way is to be added to the Clause, such as:

***". . . provided, however, that said real property shall have access to a public way beneath the elevated freeway structure."***

B. DD-2

At interchanges where real property abuts upon the freeway and a city street or county road and the demarcation of freeway and local road is reasonably subject to misinterpretation, the following clause is used to designate the lines over which no access is allowed:

***"There shall be no abutter's rights of access over and across the courses described above with lengths of \_\_\_\_\_."***

NOTE: In exceptional cases, when further clarification is needed of intent to restrict or permit access, modification of the above clauses will be made to clearly set forth the State's intent.

**6.13.03.03 Landlocked Parcels**

DD for landlocked parcels sold at public auction shall contain the following constructive notice clause:

***"The above-described real property is landlocked and without any direct access to the freeway or to any public or private road. The State Of California is without obligation or liability to provide access to said real property."***

**6.13.03.04 Power of Termination Clause for Conveyance for Public Purposes**

DD conveying excess land to public agencies may require a clause limiting use of property to public purposes and to provide for reversion to the State if such a limiting condition is broken. (Civil Code Section 885.010, et seq.)

Where it is desired to limit use of property to a public use without limiting the nature of the public use, the following clause shall be used:

***"It is expressly made a condition herein that the conveyed property be used exclusively for public purposes for a period of fifteen (15) years from the recorded date of this deed; that if said property ceases to be used exclusively for public purposes during this fifteen (15)-year period, the State may exercise its power of termination. In the event the State exercises its power of termination, all title and interest to said property shall revert to the State of California, Department of Transportation, and that the interest held by the grantee(s) named herein, or its/their assigns, shall cease and terminate."***

***The actual public use of the herein described property, must commence within \_\_\_\_\_ years from the recorded date of this deed and that public use shall continue through the remainder of the***

*fifteen (15)-year period or the State may exercise its power of termination."*

If a more restrictive clause which would limit use to a specific public purpose is desired, the following clause shall be used:

*"It is expressly made a condition herein that the conveyed property be used exclusively for \_\_\_\_\_, a public purpose, for a period of fifteen (15) years from the recorded date of this deed; that if said property ceases to be used exclusively for \_\_\_\_\_, a public purpose, during this fifteen (15)-year period, the State may exercise its power of termination. In the event the State exercises its power of termination, all title and interest to said property shall revert to the State of California, Department of Transportation, and that the interest held by the grantee(s), named herein, or its/their assigns, shall cease and terminate.*

*The actual public use of the herein described property as a \_\_\_\_\_, must commence within \_\_\_\_\_ years from the recorded date of this deed and that public use shall continue throughout the remainder of the fifteen (15)-year period or the State may exercise its power of termination."*

#### **6.13.03.05**      **Clause for Soil Instability Caused by State Highway Construction**

The following clause shall be included in all DD, sales contracts and public sales notices utilized in disposal of excess properties having a history of soil instability caused in part or in its entirety by State highway construction:

*"It is mutually agreed and understood that this property may be subject to soil instability and that the grantees, for themselves and their successors or assigns, hereby waive any and all claims for damages resulting from further earth movement or soil instability which may occur because of prior actions by the State of California, its officers, agents and employees."*

#### **6.13.03.06**      **Slope Clause - Right to Remove**

The following clause shall be included in applicable DD, sales contracts and public sales notices utilized in disposal of excess properties where its use might be helpful in the sale of property, or in realizing the maximum return on property:

*"It is understood and agreed by the parties hereto that the grantees, their successors or assigns, shall have the right at any time to remove such slopes or portions thereof upon removing the necessity for maintaining such slopes or portions thereof or upon providing in place thereof other adequate lateral support. The design and construction of any support or changes in lieu of existing slopes shall first be approved by the State Department Of Transportation or such other public body having the right of said approval for the protection and support of said highway."*

When the slope easement is no longer necessary, the State may clear the easement from the Public Record by a DD, quitclaiming the easement to the fee holder of the property. The property owner is entitled to the DD without payment of consideration.

#### **6.13.04.00**      **Correctory Director's Deed**

Recorded DD containing errors or omissions shall be corrected by submitting new deeds to HQ R/W explaining the errors or omissions. Correctory Deeds that involve a substantial change in interest to be conveyed shall not be submitted to HQ R/W until the District has reacquired the interest originally conveyed. A quitclaim deed will normally be sufficient for this purpose. Examples of Correctory Deeds would be deeds that were in error as to area or access.

Correctory Deeds prepared for purposes of correcting minor errors occurring in the deed description or vesting may be submitted to HQ R/W without reacquiring the interest conveyed. The Correctory Deed shall however contain the following clause:

*"The purpose of this Director's Deed is to correct the (description) (vesting) contained in Director's Deed recorded \_\_\_\_\_."*

#### **6.13.05.00**      **Director's Deed Maps**

DD Maps or Excess Land Maps are used in appraisals, negotiations and sales notices of real property or interest in real property being exchanged or sold by CALTRANS. DD Maps are used by HQ R/W in reviewing proposed transactions and may be referred to by members of the CTC. DD Maps will accompany all DD and shall consist of an Index and Parcel Map.

Requirements for the following DD Maps are shown in Exhibit 6-1(K).

- A. Public Sale Parcel/Index Maps.
- B. Finding "A" and "B" Parcel/Index Maps.
- C. Exchange Parcel Map.
- D. Contract Obligation Parcel Map.

**6.13.05.01**      **Parcel Maps - Excess Lands**

Parcel Maps are not legally required in disposal of State-owned excess land. The District may, for

public relations purposes, elect to record Parcel Maps when both the following two conditions exist:

- A. The excess land parcel is located within a county or municipality which has adopted a local ordinance requiring submission, approval and recording of Parcel Maps.
- B. The excess land parcel is being disposed of by public sale.